

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO

FEDERICO VILLARMAN OVIEDO,
Petitioner,

v.

Case No. 99-077JAF

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR NEW TRIAL

NOW COMES, Federico Villarman-Oviedo, hereinafter referred to as
Petitioner and prays this Honorable Court for a new trial in
view of the United States recent Supreme Court Confrontation Clause
ruling, Crawford v. Washington, 541 U.S. 36, 74 CrL 401 (2004).

The District Court erred in depriving Petitioner of the right to cross-
examine witnesses against him, in violation of the sixth amendment.

During trial, Petitioner's effort to elicit impeachment and/or
exculpatory evidence on the involvement of Valerio, the key witness
for the prosecution, was thwarted by the court.

There is more than a reasonable probability that had Petitioner been
timely provided with the specific information on Valerio's identity
and his plea agreement with the government as ordered by the District
Court pursuant to repeated defense motions requesting discovery from
the government of this specific information, and had Petitioner been
given the rightful opportunity to investigate Valerio's criminal
activities, the resulting impeachment evidence presented by Petitioner
to the jury would have had a devastating impact on Valerio's
credibility, and the result of this preceeding would have been
altered favorably towards Petitioner's acquittal. The trial court
erred in failing to enforce Petitioner's pretrial request for timely
discovery by the government of the often-times requested impeachment

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evidence on Valerio, thereby preventing him from adequately preparing and formulating his defense. The trial court also erred in expressly restricting Petitioner's counsel in her cross-examination of Valerio with respect to his involvement in drug trafficking activities and his plea agreement with the government. As a consequence of the government's misconduct in disregarding its discovery obligations pursuant to the Federal Code of Evidence and the trial court orders to comply with said obligations, compounded by the above-mentioned errors of the trial court sanctioning the government's misconduct, Petitioner was prejudicially deprived of his Sixth Amendment right to cross-examine witnesses against him.


The trial court abused its discretion in failing to enforce Petitioner's pretrial requests for timely discovery by the government of the impeachment evidence on Valerio repeatedly requested by the Petitioner, thereby preventing him from exercising his right to prepare and formulate his best possible defense. The trial court also erred in expressly restricting Petitioner's counsel in her cross-examination of Valerio with respect to his involvement in drug trafficking activities and his plea agreement with the government.

The government's intentional non-compliance with its discovery obligations under the Federal Code of Evidence and the trial court's errors in sanctioning the government's misconduct prejudicially prevented Petitioner from exercising his Sixth Amendment right to cross-examine witnesses against him.

Since the Supreme Court's landmark ruling on requirements of confrontation Clause, Crawford rule for admission of hearsay is applicable retroactively on habeas review, Crawford v. Washington, 541 U.S. 36, 74 Cr1 401 (2004), Petitioner respectfully moves that


the judgment entered against him be reversed and a new trial granted during which he is not deprived of his constitutional right to cross-examine the witnesses against him.

Dated: March 20, 2005


Federico Villarman-Oviedo
17368-069
Federal Correction Complex
P.O. Box 1031
Coleman, FL 33521

CERTIFICATE OF SERVICE

I, Federico Villarman-Oviedo, hereby certify under penalty of perjury, that I have deposited in the US Mails, the foregoing copy to the U.S. Attorney's office at; U.S. Attorney's Office, Torre Chardon, Suite 1201, 350 Carlos Chardon Ave., Hato Rey, PR 00918 on the 20 of March, 2005.


Federico Villarman-Oviedo
17368-069
Federal Correction Complex
P.O. Box 1031
Coleman, FL 33521